

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**Priscilla Sterling, Raine Becker, Shawn
Miller, and John Bennett, individually and on
behalf of all others similarly situated
Plaintiffs**

v.

Civil No. 3:22-cv-531-KHJ-MTP

**The City of Jackson, Mississippi; Chokwe A.
Lumumba; Tony Yarber; Kishia Powell;
Robert Miller; Jerriot Smash; Siemens
Corporation; Siemens Industry, Inc.; and
Trilogy Engineering Services LLC**

Defendants

**MAYOR CHOKWE A. LUMUMBA AND ROBERT MILLER’S
MOTION FOR QUALIFIED IMMUNITY AND JUDGMENT
ON THE PLEADINGS TO DISMISS THE AMENDED CLASS ACTION
COMPLAINT FOR INJUNCTIVE RELIEF AND MONEY DAMAGES**

Mayor Lumumba and Miller, through counsel and pursuant to Federal Rule of Civil Procedure 12(c), files this Motion for Qualified Immunity and for Judgment on the Pleadings, seeking dismissal of Counts I, II and V of Plaintiffs’ Amended Class Action Complaint for Injunctive Relief and Money Damages with Jury Trial Demand [Doc. 57]. In support of the requested relief, they state:

1. In the Amended Complaint, Plaintiffs assert two claims for relief against Mayor Lumumba and Miller: (1) Count I: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – Bodily Integrity; and (2) Count II: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – State Created Danger. *See id.* at 77-81.

2. Each claim fails to state a claim upon which relief may be granted against Mayor Lumumba and Miller.

3. Mayor Lumumba and Miller are entitled to the protection afforded by the qualified-immunity defense.

4. Plaintiffs have not alleged state-actor coercion, and therefore, no violation of bodily integrity.

5. The Fifth Circuit does not recognize a state-created-danger theory of liability.

6. Plaintiffs have also failed to state a claim for negligence (Count V) against Mayor Lumumba or Miller in his individual capacity, because both acted in the course and scope of their employment.

7. Accordingly, and for the reasons more fully set forth in his accompanying Memorandum in Support, Mayor Lumumba and Miller request dismissal of Counts I, II, and V against them.

RESPECTFULLY SUBMITTED, this the 14th day of July, 2023.

/s/ John F. Hawkins

JOHN F. HAWKINS

John F. Hawkins (MSB #9556)
HAWKINS LAW, P.C.
226 North President Street (39201)
Post Office Box 24627
Jackson, MS 39225-4627
Telephone: (601) 969-9692
Facsimile: (601) 914-3580
john@hgattorneys.com
*Counsel for Mayor Chokwe A.
Lumumba and Robert Miller*

CERTIFICATE OF SERVICE

I hereby certify that on July 14, 2023, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which served a copy of the foregoing on all counsel of record.

/s/ John F. Hawkins
JOHN F. HAWKINS